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Domestic Violence, Crime and Victims Act 2004

CHAPTER 28

DOMESTIC VIOLENCE, CRIME AND VICTIMS ACT 2004

PART 1

DOMESTIC VIOLENCE ETC

Amendments to Part 4 of the Family Law Act 1996

- 1 Breach of non-molestation order to be a criminal offence
- 2 Additional considerations if parties are cohabitants or former cohabitants
- 3 “Cohabitants” in Part 4 of 1996 Act to include same-sex couples
- 4 Extension of Part 4 of 1996 Act to non-cohabiting couples

Causing or allowing the death of a child or vulnerable adult

- 5 The offence
- 6 Evidence and procedure: England and Wales
- 7 Evidence and procedure: Northern Ireland
- 8 Evidence and procedure: courts-martial

Domestic homicide reviews

- 9 Establishment and conduct of reviews

PART 2

CRIMINAL JUSTICE

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Assault, harassment etc

- 10 Common assault to be an arrestable offence
- 11 Common assault etc as alternative verdict
- 12 Restraining orders: England and Wales
- 13 Restraining orders: Northern Ireland

Surcharges

- 14 Surcharge payable on conviction
- 15 Increase in maximum on-the-spot penalty for disorderly behaviour
- 16 Higher fixed penalty for repeated road traffic offences

Trial by jury of sample counts only

- 17 Application by prosecution for certain counts to be tried without a jury
- 18 Procedure for applications under section 17
- 19 Effect of order under section 17(2)
- 20 Rules of court
- 21 Application of sections 17 to 20 to Northern Ireland

Unfitness to plead and insanity

- 22 Procedure for determining fitness to plead: England and Wales
- 23 Procedure for determining fitness to be tried: Northern Ireland
- 24 Powers of court on finding of insanity or unfitness to plead etc
- 25 Appeal against order made on finding of insanity or unfitness to plead etc
- 26 Courts-martial etc

Miscellaneous

- 27 Powers of authorised officers executing warrants
- 28 Disclosure orders for purpose of executing warrants
- 29 Procedure on breach of community penalty etc
- 30 Prosecution appeals
- 31 Intermittent custody

PART 3

VICTIMS ETC

CHAPTER 1

THE VICTIMS' CODE

- 32 Code of practice for victims
- 33 Procedure
- 34 Effect of non-compliance

CHAPTER 2

REPRESENTATIONS AND INFORMATION

Imprisonment or detention

- 35 Victims' rights to make representations and receive information

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Hospital orders

- 36 Victims' rights: preliminary
- 36A Supplemental provision for case where no restriction order made
- 37 Representations
- 37A Representations where restriction order not made
- 38 Information
- 38A Information where restriction order not made
- 38B Removal of restriction

Hospital directions

- 39 Victims' rights: preliminary
- 40 Representations
- 41 Information
- 41A Removal of restriction

Transfer directions

- 42 Victims' rights: preliminary
- 42A Supplemental provision for case where no restriction direction given
- 43 Representations
- 43A Representations where restriction direction not given
- 44 Information
- 44A Information where restriction direction not given
- 44B Removal of restriction

Interpretation

- 45 Interpretation: sections 35 to 44

Northern Ireland

- 46 Victims of mentally disordered persons

CHAPTER 3

OTHER MATTERS RELATING TO VICTIMS ETC

Parliamentary Commissioner

- 47 Investigations by Parliamentary Commissioner

Commissioner for Victims and Witnesses

- 48 Commissioner for Victims and Witnesses
- 49 General functions of Commissioner
- 50 Advice
- 51 Restrictions on exercise of functions
- 52 "Victims" and "witnesses"
- 53 Authorities within Commissioner's remit

Disclosure of information

- 54 Disclosure of information

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Victims' Advisory Panel

55 Victims' Advisory Panel

Grants

56 Grants for assisting victims, witnesses etc

Criminal injuries compensation

57 Recovery of criminal injuries compensation from offenders

PART 4

SUPPLEMENTARY

58 Amendments and repeals
59 Transitional and transitory provisions
60 Commencement
61 Orders
62 Extent
63 Short title

SCHEDULES

SCHEDULE 1 — Modification of sections 17 to 20 for Northern Ireland

- 1 For section 18 substitute— Procedure for applications under section 17...
- 2 In section 19(3) after “enactment” insert “ (including any provision...
- 3 In section 19(4)(b) for the words from “section” to “etc)”...
- 4 In section 19(5) for “section 18(2) of the Criminal Appeal...
- 5 For section 19(7) substitute— (7) Nothing in this section or...
- 6 For section 20(2) substitute— (2) Without limiting subsection (1), rules...
- 7 In section 20(3)— (a) after “section” insert “ or section...

SCHEDULE 2 — Supervision orders on finding of insanity or unfitness to plead etc
The following is the Schedule inserted before Schedule 2 to...

SCHEDULE 3 — Unfitness to stand trial and insanity: courts-martial etc

Army Act 1955 (3 & 4 Eliz. 2 c. 18) and Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)

- 1 For section 116 of the Army Act 1955 and of...
- 2 In section 225(1) of the Army Act 1955 and in...

Naval Discipline Act 1957 (c. 53)

- 3 For section 63 of the Naval Discipline Act 1957 (provisions...
- 4 In the proviso to section 56(3) of that Act (court-martial...
- 5 In section 135(1) of that Act (general provisions as to...

Courts-Martial (Appeals) Act 1968 (c. 20)

- 6 The Courts-Martial (Appeals) Act 1968 is amended as follows.
- 7 For section 16 substitute— Substitution of finding of insanity or...

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- 8 In section 21 (appeal against finding of not guilty by...
- 9 In section 22 (consequences where appeal under section 21 allowed),...
- 10 For section 23 substitute— Substitution of findings of unfitness to...
- 11 (1) Section 24 (appeal against finding of unfitness to stand...
- 12 For section 25 substitute— Disposal of appeal under s. 24...
- 13 After that section insert— Appeal against order made in cases...
- 14 (1) Section 57 (interpretation) is amended as follows.
- 15 (1) Schedule 3 (modifications in relation to prisoners of war)...

SCHEDULE 4 — Powers of authorised officers executing warrants
The following is the Schedule inserted after Schedule 4 to...

SCHEDULE 5 — Procedure on breach of community penalty etc

Interpretation

- 1 In this Schedule— “the Sentencing Act” means the Powers of...

Detention and training orders

- 2 (1) Section 104 of the Sentencing Act (breach of supervision...

Suspended sentence supervision orders

- 3 (1) Section 123 of the Sentencing Act (breach of requirement...

Community orders under the Sentencing Act

- 4 (1) Schedule 3 to the Sentencing Act (breach, revocation and...

Curfew orders and exclusion orders

- 5 (1) Schedule 3 to the Sentencing Act (breach, revocation and...

Attendance centre orders

- 6 (1) Schedule 5 to the Sentencing Act (breach, revocation and...

Community orders under the 2003 Act

- 7 (1) Schedule 8 to the 2003 Act (breach, revocation or...

Suspended sentence orders under the 2003 Act

- 8 (1) Schedule 12 to the 2003 Act (breach or amendment...
- 9 In Schedule 13 to the 2003 Act (transfer of suspended...

Local justice areas

- 10 The power conferred by section 109(5)(b) of the Courts Act...

SCHEDULE 6 — Intermittent custody

- 1 The Criminal Justice Act 2003 (c. 44) is amended as...
- 2 In section 244 (duty to release prisoners), in subsection (3)—...
- 3 In section 246 (power to release prisoners on licence before...
- 4 In section 249 (duration of licence), at the end of...
- 5 In section 250 (licence conditions), in subsection (7), for “and...

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- 6 In section 264 (consecutive terms), in subsection (1), after paragraph...
7 After that section insert— Consecutive terms: intermittent custody (1)
This section applies where— (a) a person (“the offender”)...

SCHEDULE 7 — Investigations by Parliamentary Commissioner

- 1 The Parliamentary Commissioner Act 1967 (c. 13) is amended as...
2 (1) Section 5 (matters subject to investigation) is amended as...
3 (1) Section 7 (procedure in respect of investigations) is amended...
4 (1) Section 8 (evidence) is amended as follows.
5 (1) Section 10 (reports by Commissioner) is amended as follows....
6 In section 12(1) (interpretation) for the definition of “person aggrieved”...

SCHEDULE 8 — Commissioner for Victims and Witnesses

Deputy Commissioner

- 1 (1) The Secretary of State for Justice must appoint a...

Terms of appointment

- 2 (1) This paragraph applies in relation to a person appointed...

Staff

- 3 (1) The Commissioner may appoint such persons as members of...

Delegation

- 4 The Commissioner may authorise any member of his staff or...

Pensions

- 5 (1) Schedule 1 to the Superannuation Act 1972 (c. 11)...

Finance

- 6 The Secretary of State must pay— (a) the remuneration of...

Accounts

- 7 (1) The Commissioner must— (a) keep proper accounts and proper...

Annual plan

- 8 (1) The Commissioner must, before the beginning of each financial...

Annual report

- 9 (1) The Commissioner must, as soon as possible after the...

Disqualification Acts

- 10 (1) In Part 3 of Schedule 1 to the House...

Meaning of “financial year”

- 11 In this Schedule “financial year” means— (a) the period beginning...

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SCHEDULE 9 — Authorities within Commissioner’s remit

Government departments

- 1WA The Department for Business, Innovation and Skills.
- 1XA The Department for Business, Enterprise and Regulatory Reform.
- 1YA The Department for Children, Schools and Families.
- 1ZA The Department for Communities and Local Government.
- 1ZB The Department for Education.
 - 1 The Department for Constitutional Affairs.
 - 2 The Department for Education and Skills.
 - 3 The Department of Health.
 - 3A. The Department for Innovation, Universities and Skills.
 - 4 The Department of Trade and Industry.
 - 5 The Department for Transport.
 - 6 The Department for Work and Pensions.
 - 7 The Foreign and Commonwealth Office.
 - 8 The Home Office.
- 8A The Ministry of Justice.
- 9 The Office of the Deputy Prime Minister.

Customs and Excise

- 10 The Commissioners of Customs and Excise.

Police forces etc

- 11 A police force for a police area in England or...
- 12 The Serious Fraud Office.
- 13 The Serious Organised Crime Agency.
- 14 The National Crime Squad.
- 15 The force of constables appointed under section 53 of the...
- 16 The Ministry of Defence Police.

Criminal injuries compensation

- 17 The Criminal Injuries Compensation Appeals Panel.
- 18 The Criminal Injuries Compensation Authority.

Health and safety

- 19 The Health and Safety Commission.
- 20 The Health and Safety Executive.

Legal services

- 21 The Legal Services Commission.

Court administration

- 22 Persons exercising functions relating to the carrying on of the...

Criminal justice system

- 23 The Criminal Cases Review Commission.
- 24 The Crown Prosecution Service.
- 25 A local probation board established under section 4 of the...

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- 25A A provider of probation services.
- 26 The Parole Board.
- 27 The Prison Service.
- 28 The Youth Justice Board for England and Wales.
- 29 A youth offending team established under section 39 of the...

Maritime and coastguards

- 30 The Maritime and Coastguard Agency.

SCHEDULE 10 — Minor and consequential amendments

Colonial Prisoners Removal Act 1884 (c. 31)

- 1 In section 10 of the Colonial Prisoners Removal Act 1884...

Children and Young Persons Act 1933 (c. 12)

- 2 In Schedule 1 to the Children and Young Persons Act...

Criminal Procedure (Insanity) Act 1964 (c. 84)

- 3 In section 8(2) of the Criminal Procedure (Insanity) Act 1964...

Criminal Appeal Act 1968 (c. 19)

- 4 In section 15 of the Criminal Appeal Act 1968 (right...
- 5 In section 37 of that Act (detention of defendant on...
- 6 In section 51 of that Act (interpretation), in subsection (2A),...

Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))

- 7 In Schedule 1 to the Children and Young Persons Act...

Juries Act 1974 (c. 23)

- 8 (1) Section 11 of the Juries Act 1974 (ballot and...

Rehabilitation of Offenders Act 1974 (c. 53)

- 9 In section 1(3) of the Rehabilitation of Offenders Act 1974...

Magistrates' Courts Act 1980 (c. 43)

- 10 In section 108 of the Magistrates' Courts Act 1980 (right...
- 11 In section 139 of that Act (disposal of sums adjudged...

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

- 12 In section 13A of the Criminal Appeal (Northern Ireland) Act...
- 13 In section 19(1A)(a) of that Act (legal aid), after “appeal...

Supreme Court Act 1981 (c. 54)

- 14 In section 55 of the Supreme Court Act 1981 (constitution...
- 15 In section 81 of that Act (power of Crown Court...

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Criminal Justice Act 1982 (c. 48)

- 16 In Schedule 1 to the Criminal Justice Act 1982 (offences...

Representation of the People Act 1983 (c. 2)

- 17 In section 3A of the Representation of the People Act...

Mental Health Act 1983 (c. 20)

- 18 In section 47 of the Mental Health Act 1983 (removal...
19 In section 69 of that Act (application to tribunals concerning...
20 In section 71 of that Act (references by Home Secretary...
21 In section 79 of that Act (interpretation of Part 5),...
22 In section 84 of that Act (removal to England and...
23 (1) Schedule 5 to that Act (transitional and saving provisions)...

Police and Criminal Evidence Act 1984 (c. 60)

- 24 In Schedule 5 to the Police and Criminal Evidence Act...

Prosecution of Offences Act 1985 (c. 23)

- 25 In section 16 of the Prosecution of Offences Act 1985...

Coroners Act 1988 (c. 13)

- 26 In section 16 of the Coroners Act 1988 (adjournment of...
27 In section 17 of that Act (coroner to be informed...

Criminal Justice Act 1988 (c. 33)

- 28 In section 41 of the Criminal Justice Act 1988 (power...

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

- 29 In Schedule 5 to the Police and Criminal Evidence (Northern...

Criminal Justice Act 1991 (c. 53)

- 30 In section 24 of the Criminal Justice Act 1991 (recovery...

Criminal Appeal Act 1995 (c. 35)

- 31 In section 9 of the Criminal Appeal Act 1995 (references...
32 In section 10 of that Act (which makes equivalent provision...

Law Reform (Year and a Day Rule) Act 1996 (c. 19)

- 33 In section 2 of the Law Reform (Year and a...

Family Law Act 1996 (c. 27)

- 34 (1) Section 36 of the Family Law Act 1996 (one...
35 In section 38 of that Act (neither cohabitant or former...
36 (1) Section 42 of that Act (non-molestation orders) is amended...
37 (1) Section 46 of that Act (undertakings) is amended as...
38 (1) Section 47 of that Act (arrest for breach of...
39 In section 49 of that Act (variation and discharge of...

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- 40 In section 62 of that Act (definitions), in subsection (1)(b),...
- 41 (1) In section 63 of that Act (interpretation of Part...
- 42 (1) Schedule 7 to that Act (transfer of certain tenancies...

Protection from Harassment Act 1997 (c. 40)

- 43 (1) Section 5 of the Protection from Harassment Act 1997...
- 44 In section 7 of that Act (interpretation), in subsection (1),...

Crime (Sentences) Act 1997 (c. 43)

- 45 (1) Section 47 of the Crime (Sentences) Act 1997 (power...
- 46 (1) Schedule 1 to that Act (transfers of prisoners within...

Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9))

- 47 (1) Article 7 of the Protection from Harassment (Northern Ireland)...

Crime and Disorder Act 1998 (c. 37)

- 48 In section 32 of the Crime and Disorder Act 1998...

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 49 In section 132 of the Powers of Criminal Courts (Sentencing)...
- 50 In section 136 of that Act (power to order statement...
- 51 (1) Section 137 of that Act (power to order parent...
- 52 (1) Section 138 of that Act (fixing of fine or...
- 53 In section 142(1) of that Act (power of Crown Court...

Criminal Justice and Court Services Act 2000 (c. 43)

- 54 The Criminal Justice and Court Services Act 2000 is amended...
- 55 Section 69 (duties in connection with victims of certain offences)...
- 56 In Schedule 4 (offences against children for the purposes of...

Sexual Offences Act 2003 (c. 42)

- 57 (1) Section 133 of the Sexual Offences Act 2003 (general...
- 58 In section 135 of that Act (interpretation: mentally disordered offenders),...
- 59 (1) Schedule 5 to that Act (other offences for the...

Criminal Justice Act 2003 (c. 44)

- 60 In section 48 of the Criminal Justice Act 2003 (c....
- 61 In section 50 of that Act (application of Part 7...
- 62 In section 74 of that Act (interpretation of Part 9),...
- 63 In section 151 of that Act (community order for persistent...
- 64 In section 305 of that Act (interpretation of Part 12),...
- 65 In Schedule 15 to that Act (specified offences for the...
- 66 In Schedule 17 to that Act (Northern Ireland offences specified...

SCHEDULE 11 — Repeals

SCHEDULE 12 — Transitional and transitory provisions

- 1 (1) Section 1 and paragraphs 37 to 39 of Schedule...

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- 2 In section 5, the reference in subsection (1)(a) to an...
- 3 (1) This paragraph has effect, in relation to any time...
- 4 Section 10 applies only in relation to offences committed on...
- 5 (1) Section 12(1) and paragraphs 43(3) and 48 of Schedule...
- 6 (1) Section 13(1) and paragraph 47(3) of Schedule 10 do...
- 7 Section 14 applies only in relation to offences committed on...
- 8 (1) The provisions mentioned in sub-paragraph (2) do not apply—...
- 9 The Schedule inserted by Schedule 2 has effect in relation...
- 10 Each entry in Schedule 11 applies in the same way...

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